

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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**UFP ATLANTIC DIVISION, LLC, a Michigan  
limited liability company,**

*Plaintiff,*

v.

**ROUTE 299 RETAIL CENTER, LLC;  
HIGHLAND SQUARE DEVELOPMENT LLC;  
MICHAEL BARNETT; DENISE BARNETT;  
M&C OF DUTCHESS, LLC; P. SALA & SONS  
CONSTRUCTION, INC.; TECTONIC  
ENGINEERING & SURVEYING  
CONSULTANTS, P.C.; CREIGHTON  
MANNING ENGINEERING LLP; and JOHN  
DOE Nos. 1-10, said names being fictitious and  
unknown to Plaintiff, the persons or parties  
intended being any and all tenants, occupants,  
persons or corporations, if any, having or  
claiming an interest in or lien upon the premises  
described in the Amended Complaint,**

*Defendants.*

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**ANSWER TO CROSS-CLAIMS OF  
DEFENDANT TECTONIC  
ENGINEERING & SURVEYING  
CONSULTANTS, P.C.**

Civil Action No.  
1:12-CV-00053 (MAD/ATB)

Defendants Route 299 Retail Center, LLC, Highland Square Development LLC, Michael Barnett and Denise Barnett (collectively, "Answering Defendants"), by their attorneys, Hiscock & Barclay, LLP, respond as follows to the Cross-Claims of Defendant, Tectonic Engineering & Surveying Consultants, P.C. ("Tectonic"):

**ANSWER TO TECTONIC'S FIRST CROSS-CLAIM**

1. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 104 of Tectonic's Cross-Claims.
2. With respect to the allegations in Paragraph 105 of Tectonic's Cross-Claims, assert that Answering Defendant Highland Square Development, LLC is a limited liability

company existing under the laws of the State of New York with a place of business as set forth in said Paragraph 105, and admit the remaining allegations contained in that paragraph.

3. Admit the allegations contained in Paragraph 106 of Tectonic's Cross-Claims.

4. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 107 of Tectonic's Cross-Claims.

5. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 108 of Tectonic's Cross-Claims.

6. Admit the allegations contained in Paragraph 109 of Tectonic's Cross-Claims.

7. Admit the allegations contained in Paragraph 110 of Tectonic's Cross-Claims.

8. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 111 of Tectonic's Cross-Claims.

9. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 112 of Tectonic's Cross-Claims.

10. Admit the allegations contained in Paragraph 113 of Tectonic's Cross-Claims.

11. With respect to the allegations in Paragraph 114 of Tectonic's Cross-Claims, admit the existence of a contract between the referenced parties but, except as admitted herein, refer to the written agreement as the best evidence of its terms and content and further refers all questions of law alleged therein to the Court for determination.

12. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 115 of Tectonic's Cross-Claims.

13. With respect to the allegations in Paragraph 116 of Tectonic's Cross-Claims, admit the existence of a contract between the referenced parties but, except as admitted herein,

refer to the written agreement as the best evidence of its terms and content and further refers all questions of law alleged therein to the Court for determination.

14. Deny the allegations contained in Paragraph 117 of Tectonic's Cross-Claims.

15. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 118 of Tectonic's Cross-Claims.

16. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 119 of Tectonic's Cross-Claims.

17. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 120 of Tectonic's Cross-Claims.

18. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 121 of Tectonic's Cross-Claims.

19. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 122 of Tectonic's Cross-Claims.

20. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 123 of Tectonic's Cross-Claims.

21. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 124 of Tectonic's Cross-Claims.

22. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 125 of Tectonic's Cross-Claims.

23. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 126 of Tectonic's Cross-Claims.

24. Deny the allegations contained in Paragraph 127 of Tectonic's Cross-Claims.

25. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 128 of Tectonic's Cross-Claims.

26. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 129 of Tectonic's Cross-Claims.

27. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 130 of Tectonic's Cross-Claims.

28. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 131 of Tectonic's Cross-Claims.

29. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 132 of Tectonic's Cross-Claims.

30. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 133 of Tectonic's Cross-Claims.

31. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 134 of Tectonic's Cross-Claims.

32. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 135 of Tectonic's Cross-Claims.

33. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 136 of Tectonic's Cross-Claims.

34. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 137 of Tectonic's Cross-Claims.

35. Deny the allegations contained in Paragraph 138 of Tectonic's Cross-Claims.

36. Deny the allegations contained in Paragraph 139 of Tectonic's Cross-Claims.

37. Deny the allegations contained in Paragraph 140 of Tectonic's Cross-Claims.



38. Deny the allegations contained in Paragraph 141 of Tectonic's Cross-Claims.

39. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 142 of Tectonic's Cross-Claim.

**ANSWER TO TECTONIC'S SECOND CROSS-CLAIM**

40. Repeat and reallege their respective responses to those paragraphs repeated and realleged in Paragraph 143 of Tectonic's Cross-Claims as if fully set forth herein.

41. Deny the allegations contained in Paragraph 144 of Tectonic's Cross-Claims.

42. Deny the allegations contained in Paragraph 145 of Tectonic's Cross-Claims.

**ANSWER TO TECTONIC'S THIRD CROSS-CLAIM**

43. Repeat and reallege their respective responses to those paragraphs repeated and realleged in Paragraph 146 of Tectonic's Cross-Claims as if fully set forth herein.

44. Deny the allegations contained in Paragraph 147 of the Complaint.

45. Deny the allegations contained in Paragraph 148 of Tectonic's Cross-Claims.

**ANSWER TO TECTONIC'S FOURTH CROSS-CLAIM**

46. Repeat and reallege their respective responses to those paragraphs repeated and realleged in Paragraph 149 of Tectonic's Cross-Claims as if fully set forth herein.

47. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 150 of Tectonic's Cross-Claims.

48. Deny the allegations contained in Paragraph 151 of Tectonic's Cross-Claims.

**ANSWER TO TECTONIC'S FIFTH CROSS-CLAIM**

49. Repeat and reallege their respective responses to those paragraphs repeated and realleged in Paragraph 152 of Tectonic's Cross-Claims as if fully set forth herein.

50. Deny the allegations contained in Paragraph 153 of Tectonic's Cross-Claims.

51. Deny the allegations contained in Paragraph 154 of Tectonic's Cross-Claims.

52. Deny the allegations contained in Paragraph 155 of Tectonic's Cross-Claims.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

53. The Cross-Claims fail to state a cause of action against Answering Defendants Michael Barnett and Denise Barnett.

**SECOND AFFIRMATIVE DEFENSE**

54. There is no privity of contract between Answering Defendant Michael Barnett and Tectonic.

**THIRD AFFIRMATIVE DEFENSE**

55. There is no privity of contract between Answering Defendant Denise Barnett and Tectonic.

**WHEREFORE**, Defendants Route 299 Retail Center, LLC, a New York Limited Liability Company, Michael Barnett, an Individual, and Denise Barnett, an Individual, demand judgment dismissing the Cross-Claims of Defendant Tectonic Engineering & Surveying Consultants, P.C. and such other and further relief as the Court deems just and proper.

**DATED:** July 16, 2012

**HISCOCK & BARCLAY, LLP**

By: 

F. Charles Dayter  
Bar Roll No. 505374

*Attorneys for Defendants*

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